

REMARKS

Applicant has carefully reviewed the Office Action dated January 16, 2007. Applicant has amended Claims 1, 11 and 17-20 and added new Claim 38 to more clearly point out the present inventive concept. Reconsideration and favorable action is respectfully requested.

The Abstract of the Disclosure has been objected to because, in the Examiner's opinion, it contains legal phraseology and "other phrases to be avoided." Applicant does not understand what the Examiner is referring to when he says "legal phraseology," as a patent application is a legal document in and of itself and all terms could be referred to as such. As to "other phrases to be avoided," this is unclear and Applicant does not understand what phrases the Examiner is specifically referring to. Applicant has amended the Abstract to some extent in an attempt to comply with the objection. Applicant respectfully requests the Examiner to specifically point out what terms are considered objectionable and Applicant will then attempt to amend such.

Claims 1-11, and 15-20 stand rejected under 35 U.S.C. § 112 as being indefinite. This rejection is respectfully traversed with respect to the amended claims. The Examiner indicates that there is some confusion with respect to the term "releasing the control signal" and the relationship thereof to "occurrence of a control signal." Applicant has amended the claims in an attempt to clarify this language, but Applicant believes that the term "occurrence of a control signal" is clear in that the term "occurrence" is generally used to refer to the point in time when something is present or "occurs." Clearly, the Specification utilizes the term "occur" in conjunction with the time that the visual cue is present in the broadcast. As such, Applicant believes that a reasonable interpretation of the phrase "occurrence of a control signal" is when the control signal is present in the broadcast presentation. Clearly, the control signal is termed to be "part of the broadcast presentation" and, thus, this term is believed to be clear. The term "releasing the control signal" is utilized in the Specification to define the point of time at which the control signal is basically released in the broadcast presentation at a particular point in time, i.e., when it is sent to the user's device. Clearly, the control signal is "part" of the broadcast presentation and, therefore, there is an action, the "releasing" action, as to the control signal.

Thus, the term releasing the control signal, as defined in the Specification with respect to Fig. 30 and the flow chart associated therewith, indicates that the signal is sent as part of the broadcast, i.e., this is when it occurs in the broadcast presentation. However, the claims have been amended to clarify that the control signal operates in conjunction with the broadcast presentation such that it will be an occurrence as a part of the broadcast presentation. Applicant believes that this clarification should overcome the examiners 35 U.S.C. § 112 rejection, the withdrawal of which is respectfully requested.

Claims 1-3, 6-8, 10, 11, and 15-20 stand rejected under 35 U.S.C. § 102(e) as being anticipated by *Wagner et al.* (U.S. Patent No. 6,600,496). This rejection is respectfully traversed with respect to the claims as currently presented.

Applicant believes that the Examiner has a misunderstanding of the Applicant's invention as defined by the claims. As noted herein above, Applicant explained the claims require that the occurrence of a control signal is a situation that is "part of the broadcast presentation." Thus, the control signal is a signal that is received and reproduced as a portion of the normal broadcast, as well as is the case with respect to the visual cue. Therefore, the action is to display a visual cue and also to cause a control signal to appear "in the broadcast presentation" to the user in an associative relationship. This appearance of the control signal will control the computer with the requirement that the occurrence of the control signal be "in association with a visual cue." Therefore, the broadcast must both transmit a visual cue and a control signal in an "associative relationship."

As to the Examiner's rejection, the Examiner first states with respect to *Wagner* that the visual cue is provided subsequent to the occurrence of a control signal that is "part of the presentation broadcast" and which control signal is in association with a visual cue. The Examiner cites column 6, lines 20-30 for support of this element of the application. This portion of the specification discusses the GUI, which is the animated character, and possibly the window (40) that provides an "entertaining yet relatively unobtrusive way of notifying a user when interactive content can be accessed in relation to material he is currently viewing on the television screen." (Column 6, lines 18-21.) The actual data indicating the presence or

availability of interactive content, i.e., Applicant noting that this seems to refer to the GUI, is indicated as being received via the television input (6). Thus, it may be received from the broadcast transmitter. However, it is specifically noted that it “may” be included within the vertical blanking interval (VBI). Alternatively, the information could be provided along a different data path (9). However, there is nothing in this portion of the specification that indicates that the visual cue is provided subsequent to the “occurrence of a control signal that is part of the broadcast presentation,” as there is no discussion of any control signal in this portion of the specification. All that is discussed is the generation of the GUI.

The Examiner then indicates that the step of “releasing the control signal” is supported by the specification at column 7, lines 10-16, the Examiner indicating that this is facilitated by “establishing the connection.” The specification at column 17, beginning at line 9 is directed toward the concept of illustrating when a web connection is made. This requires the presentation of the box (45) to provide an indication of progress. However, in column 6, beginning at line 44, the specification states that “in response to the on-screen notification, the user can access the interactive content by pressing a button on remote control 4 to cause an information panel 45 to appear, as shown in Fig. 7.” (Column 6, lines 44-47.) Thus, the user must press the button merely to access the interactive content. Thereafter, the user must activate the “Get Info” button (47) in order to enter the command to download the interactive content. The interactive data is basically a web page. However, the Examiner is confusing the control signal that is transmitted as a part of the broadcast presentation, as set forth in the claims, with the operation wherein a user presses a button to open an access page and then selects a function from a list of functions in that page in order to access the interactive content. The claim requires that the control be “facilitated from the broadcast presentation with no user intervention” which clearly indicates that no user intervention is required. Certainly there is intervention required in *Wagner* and certainly *Wagner* does not suggest that there be no user intervention, i.e., that the entire operation is automatic; rather, the user controls whether they desire to view any information regarding the content. Control is solely facilitated through the broadcast and the release of the control signal in Applicant’s claimed invention. Thus, Applicant believes the operation that the Examiner is referring to does not support a rejection of the portion of the claim relating to the phrase

“releasing the control signal.” The Examiner clearly indicates that the control signal is from the remote unit, i.e., the user pressing a button and Applicant believes that this is just not the case. The Examiner indicates that the control is after the depression of the button such that there is no user intervention. However, on one hand, the Examiner indicates that the control is facilitated from the remote control (4) and, on the other hand, indicates that the control is facilitated with no user intervention. This is inconsistent.

In view of the above, Applicant does not believe that *Wagner* anticipates Claim 1 as currently presented and, therefore, respectfully requests withdrawal of the 35 U.S.C. § 102 rejection with respect to Claim 1.

With respect to the dependent claims, in paragraph 19, with respect to the rejection of Claim 8, the Examiner indicates that *Wagner* teaches detaching one or more moving segments from a stationary portion of the visual cue. All that *Wagner* discusses is the concept of providing a box with an animated character disposed therein. All the animated character does is wave its arms. There is no operation of detaching one or more of the moving segments from a stationary portion and then traversing a path with each detached segment about the stationary portion of the visual cue to a predetermined position adjacent thereto. *Wagner* does not support a rejection of this claim.

With respect to paragraph 22 and the rejection of Claim 15 therein, the Examiner indicates that *Wagner* teaches the step of releasing a control signal through the provision of a light signal having a recognizable characteristic. However, this infrared link does not meet the limitation of the claim requiring the control signal to be part of the broadcast.

Applicant believes that the dependent claims 2-3, 6-8, 10-11, and 15-20 also overcome the rejection under 35 U.S.C. § 102 in view of *Wagner*, the withdrawal of which is respectfully requested.

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Wagner* as applied to claims 1, 7 and 8. This rejection is respectfully traversed.

With respect to paragraph 30, the Examiner indicates that *Wagner* does not expressly disclose the stationary portion of the visual cue forming an alphanumeric character and that the moving section resembles a punctuation mark. The Examiner indicates in paragraph 31 that the differences are only found in the non-functional data stored on the article of manufacture and that data identifying the particular look of the animation is not functionally related to the substrate of the article of manufacture. However, Applicant reminds the Examiner that this is a method claim and, as such, Applicant believes that this rejection is not applicable. Therefore, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection with respect to Claim 9.

Applicant has now made an earnest attempt in order to place this case in condition for allowance. For the reasons stated above, Applicant respectfully requests full allowance of the claims as amended. Please charge any additional fees or deficiencies in fees or credit any overpayment to Deposit Account No. 20-0780/PHLY-25,509 of HOWISON & ARNOTT, L.L.P.

Respectfully submitted,
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